

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

UNITED STATES OF AMERICA

v.

CRIMINAL NO.: 4:20cr27

JOSEPH M. CHERRY, II

Defendant.

**POSITION OF THE DEFENDANT, JOSEPH M. CHERRY, II,  
WITH RESPECT TO SENTENCING FACTORS**

COMES NOW the defendant, Joseph M. Cherry, II, by counsel, and states as follows for his position on sentencing:

The Defendant and counsel have reviewed the pre-sentence report. There are no objections to the factual content of the advisory sentencing guidelines.

The background of the Defendant and the facts of the case are fully set forth in the pre-sentence report. The defense contends that a variant sentence of 36 months is sufficient and will satisfy the 18 U.S.C. § 3553 factors.

The Defendant pled guilty and accepted responsibility for his actions very early in the process. This factor is particularly significant during the Covid-19 pandemic. His willingness to proceed in this fashion was a significant concession to make the administration of justice safe and efficient.

The most significant factor that the Court should consider is the Defendant's mental and emotional health issues. The pre-sentence report at paragraphs 69-71 sets forth these problems in

detail including the medications which he is required to take to control his schizophrenia and hearing voices. This is an issue that will require the Defendant to receive mental health support and medications long term, presumably for the rest of his life. These conditions do not excuse or justify the Defendant's conduct but are certainly a matter in mitigation which the Court should weigh very heavily. A sentence of 36 months which is slightly below the guidelines will allow the Defendant to get needed mental health treatment which should continue when he is on supervised release, will punish the Defendant, promote respect for the law, and will not represent a major sentencing disparity.

The defense will present additional arguments and information in support of the requested sentence at the hearing.

Respectfully submitted,

JOSEPH M. CHERRY, II

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of March, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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And, I hereby certify that I have emailed the documents to the following non-filing user:

Jeffrey A. Noll, Senior Probation Officer  
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/ s /

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